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16 **UNITED STATES DISTRICT COURT**
 17 **DISTRICT OF NEVADA**

18 BOARD OF TRUSTEES OF THE
 19 TEAMSTERS LOCAL 631 SECURITY
 20 FUND FOR SOUTHERN NEVADA; BOARD
 21 OF TRUSTEES OF THE TEAMSTERS
 22 CONVENTION INDUSTRY TRAINING
 23 FUND,
 24

25 Case No.: 2:23-cv-01624-CDS-BNW
**FINDINGS OF FACT, CONCLUSIONS
 26 OF LAW, AND ORDER GRANTING
 27 MOTION FOR DEFAULT JUDGMENT**

28 Plaintiffs

[ECF No. 7]

vs.

CY EXPO, LLC,

Defendant

28 Plaintiffs Board of Trustees of the Teamsters Local 631 Security Fund for Southern
 29 Nevada and Board of Trustees of the Teamsters Convention Industry Training Fund's
 30 (collectively referred to as the "Trust Funds") request entry of default judgment against
 31 defendant CY Expo, LLC ("CY Expo"). Despite having been properly served, CY Expo has not
 32 appeared or participated in this litigation. The Trust Funds have already obtained entry of
 33 default from the Clerk of Court. I find that the *Eitel* factors weigh in favor of default judgment,
 34 thus I grant plaintiffs' motion and enter default judgment against CY Expo.

1 **I. Findings of fact.**

2 1. Plaintiffs are the Trust Funds and are fiduciaries for purposes of the Employee
3 Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001-1500.

4 2. CY Expo acted as an employer within the State of Nevada employing persons
5 (“Covered Employees”) who perform work covered by a collective bargaining agreement (“CBA”)
6 between CY Expo and the International Brotherhood of Teamsters Local 631 (“Union”).

7 3. The CBA requires CY Expo to make employee benefit contributions to the Trust
8 Funds on behalf of its Covered Employees.

9 4. The Trust Funds are ERISA employee benefit trust funds that provide benefits to
10 Covered Employees.

11 5. The Trust Funds are established by Trust Agreements (“Trust Agreements”).

12 6. The CBA, the Trust Agreements, and 29 U.S.C. § 1145 require each employer,
13 including CY Expo, to make timely contributions to the Trust Funds on behalf of each employee
14 who performs work covered by the CBA.

15 7. The Trust Agreement and 29 U.S.C. § 1132(g) provide for assessment of audit fees,
16 court costs, expenses, interest, attorneys’ fees, and liquidated damages against an employer in the
17 event the employer defaults in making payments to the Trust Funds and legal proceedings are
18 required to recover such payments.

19 8. CY Expo has failed to meet its obligations to remit employee benefit contributions
20 to the Trust Funds as set forth in the CBA and Trust Agreements, and as required by 29 U.S.C. §
21 1145.

22 9. While CY Expo made two payments totaling \$40,937, it failed to make contributions
23 owed for the entire delinquency period.

24 10. As a result of its delinquency, CY Expo is liable to the Trust Funds for unpaid
25 contributions, interest, liquidated damages, and attorneys’ fees.

26 **II. Conclusions of Law.**

27 1. “The general rule of law is that upon default the factual allegations of the complaint,

1 except those relating to the amount of damages, will be taken as true.” *Geddes v. United Fin.*
 2 *Group*, 559 F.2d 557, 560 (9th Cir. 1977) (citing *Pope v. U.S.*, 323 U.S. 1, 12 (1944)).

3 2. Federal Rule of Civil Procedure 55(b)(2) permits a court to grant default judgment
 4 against a defendant who has failed to plead or defend an action. To determine whether a default
 5 judgment is appropriate, courts may consider the following factors:

6 (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's
 7 substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at
 8 stake in the action; (5) the possibility of a dispute concerning material facts; (6)
 9 whether the default was due to excusable neglect, and (7) the strong policy
 underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

10 *Eitel v. McCool*, 782 F.2d 1470, 1471-1472 (9th Cir. 1986).

11 3. As to the first factor, the Trust Funds will suffer prejudice if default judgment is
 12 not entered because they “will likely be without other recourse for recovery if default judgment is
 13 not entered in their favor.” *Tr. of the Bricklayers & Allied Craftworkers Local 13 Defined*
 14 *Contribution Pension Trust for S. Nev. v. Tile Concepts, Inc.*, 2016 WL 8077987 (D. Nev.
 15 Dec. 7, 2016) (citing *Liberty Ins. Underwriters, Inc. v. Scudier*, 53 F. Supp. 3d 1308, 1318
 16 F. (D. Nev. July 8, 2013)) (internal quotation marks omitted). CY Expo has failed to meet its
 17 obligations to remit employee benefit contributions and has failed to properly participate in this
 18 action. CY Expo has failed to answer or otherwise defend against the Trust Funds’ complaint.
 19 Therefore, because the Trust Funds will have no recourse against CY Expo unless default
 20 judgment is granted, the first *Eitel* factor favors the entry of default judgment.

21 4. The second and third *Eitel* factors address the merits and sufficiency of a plaintiff's
 22 claim. *Eitel*, 782 F.2d at 1471-72. Plaintiffs' complaint states a plausible claim that CY Expo
 23 failed to meet its obligations to remit employee benefit contributions to the Trust Funds, as
 24 required under the CBAs and Trust Agreements. As a result, CY Expo is liable to the Trust Funds
 25 for unpaid contributions, interest, liquidated damages, audit fees and attorneys' fees. 29 U.S.C.
 26 § 1132(g)(2). Thus, the court finds that the claims are meritorious and that the complaint
 27 sufficiently states a claim against CY Expo. The second and third *Eitel* factors therefore favor the
 28 entry of default judgment.

1 5. The fourth *Eitel* factor concerns the damages at stake in the case. The damages in
 2 this case are reasonable and well-documented, on the Trust Funds' governing documents and
 3 calculations performed. Moreover, the damages in this case are also dictated by statute. ERISA
 4 states that, in cases like this one, courts shall award unpaid contributions, interest on the unpaid
 5 contributions, liquidated damages, reasonable attorney's fees and the costs of the action, and other
 6 legal or equitable relief that the court determines appropriate. 29 U.S.C. § 1132(g)(2). This factor
 7 also favors the entry of default judgment.

8 6. Regarding the fifth *Eitel* factor, there is no possibility of dispute concerning the
 9 material facts. Because CY Expo has had a default entered against it, the allegations in the
 10 complaint are deemed admitted and taken as true. *Geddes v. United Fin. Group*, 559 F.2d 557, 560
 11 (9th Cir. 1977) (citing *Pope v. U.S.*, 323 U.S. 1, 12 (1944)). CY Expo has not appeared to rebut
 12 any of the allegations. Therefore, the fifth *Eitel* factor also favors the entry of default judgment.

13 7. The sixth *Eitel* factor demonstrates that excusable neglect is not a factor here. CY
 14 Expo's failure to answer was not based on excusable neglect. The complaint was filed on
 15 October 9, 2023. ECF No. 1. A summons was issued to CY Expo the day after, on October 10,
 16 2023 (ECF No. 3), and the registered agent accepted service of the summons and complaint on
 17 October 17, 2023 (ECF No. 4). No evidence suggests that CY Expo's failure to respond was due to
 18 to excusable neglect. The sixth *Eitel* factor favors the entry of a default judgment.

19 8. The seventh and final *Eitel* factor also weighs in favor of entering default judgment.
 20 Despite the general policy that cases "should be decided on the merits whenever reasonably
 21 possible," *Eitel*, 782 F.2d at 1472, when defendants fail to answer the complaint, a decision on the
 22 merits is "impractical, if not impossible." *Constr. Laborers Tr. Funds for S. California Admin. Co.*
 23 *v. Anzalone Masonry, Inc.*, 316 F. Supp. 3d 1192, 1202 (C.D. Cal. 2018) (citing *PepsiCo v. Cal.*
 24 *Sec. Cans*, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. Dec. 27, 2002). "Thus, the preference to decide
 25 a case on the merits does not preclude a court from granting default judgment." *PepsiCo*, 238 F.
 26 Supp. 2d at 1177 (citing *Kloepping v. Fireman's Fund*, 1996 WL 75314, at *3 (N.D. Cal. Feb. 13,
 27 1996)) (internal quotation marks omitted). Despite the strong policy favoring decisions on the
 28 merits, I find that the *Eitel* factors ultimately weigh in favor of default judgment here.

1 9. The damages set forth by the Trust Funds' and their corresponding calculations are
2 supported by the Trust Agreements, the Trust Funds' Collection Policy, and 29 U.S.C. 1132(g)(2).

3 IT IS THEREFORE ORDERED that plaintiffs' motion for default judgment [ECF No.
4 7] is GRANTED. With good cause appearing and no reason to delay, IT IS FURTHER
5 ORDERED that the Clerk of Court ENTER FINAL JUDGMENT against defendant CY Expo,
6 LLC in the amount of \$105,147 (delinquent employee benefit contributions (\$87,460),
7 liquidated damages (\$21,777), interest (\$21,777), and attorneys' fees and costs (\$15,070)
8 minus the \$40,937 that CY Expo has already paid) in favor of each plaintiff and to close this
9 case.

10 Dated: June 3, 2024

11 _____
12 UNITED STATES DISTRICT JUDGE

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17 Respectfully submitted by:
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